**86-1.56 Alternate level of care payments.** (a) [If the facility's average daily census of ALC patients for the two years prior to the rate period was equal to or less than 40 patients, the hospital] Hospitals shall be reimbursed for ALC days at the appropriate 1987 group average operating cost component of rates of payment for hospital based residential health care facilities established pursuant to Subpart 86-2 of this Part trended to the rate year.

[(b) If the facility's average daily census of ALC patients for the two years prior to the rate period was greater than 40 patients and the hospital has not applied to convert medical/surgical beds to residential health care facility beds by July 1, 1988, the hospital shall be reimbursed for ALC days at the appropriate 1987 group operating cost component of rates of payment for residential health care facilities established pursuant to Subpart 86-2 of this Part trended to the rate year.

(c) If the hospital's average daily census of ALC patients for the two years prior to the rate period was greater than 40 patients and the hospital has applied to convert medical/surgical beds to residential health care facility beds by July 1, of the rate year, then for that rate year the hospital shall be reimbursed at the 1987, group average operating cost component of rates of payment for hospital-based residential health care facilities established pursuant to Subpart 86-2 of this Part trended to the rate year providing that the hospital has requested conversion of a sufficient number of beds such that had the conversion taken place on January 1, two years prior to the rate year, the average daily census of ALC patients over the two years prior to the rate year would have been less than 40.

(d) For purposes of this section the days of care related to patients discharged within 14 days of assignment to alternate level of care status shall not be included in the calculation of a facility s average daily census of ALC patients for the two year period prior to a rate period.]

(b) A [~~primary~~] health care services allowance of [~~.23 percent~~] .614 percent for rate year 1994 and .637 percent for rate year 1995 of the hospital's non-Medicare reimbursable inpatient costs computed without consideration of inpatient uncollectible amounts and after application of the trend factor described in section 86-1.58 shall be added to the rates specified in subdivision (a) of this section.

(c) The determination of the group average operating rate for hospital based residential health care facilities specified in subdivision (a) shall be based on the combination of residential health care facilities as follows:

(1) The downstate group consisting of residential health care facilities located in the five boroughs of New York City and Nassau, Suffolk, Westchester and Rockland counties.

(2) The upstate group consisting of all other residential health care facilities in the state.

(d) Hospitals that convert medical/surgical beds to residential health care beds shall be reimbursed for services provided in the converted beds in accordance with Subpart 86-2 of this Subpart.

(e) Payor rates of payment.

(1) The same alternate level of care rate of payment adjusted for uncovered services, determined pursuant to this section, shall be paid for all alternate level of care (ALC) services provided on or after January 1, 1988 and shall be used by the following payors:

(i) State government agencies;
(ii) reserved;
(iii) reserved; and
(iv) reserved.

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(2) reserved

(3) reserved

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86-1.57 Exempt units and hospitals. (a) Basis for exempt unit status. A psychiatric, medical, alcohol , [or] substance abuse rehabilitation or epilepsy unit of a hospital or a psychiatric, medical, alcohol or substance abuse rehabilitation or other hospital shall qualify as an exempt hospital or unit only if:

(1) for rate year 1988, the hospital or unit qualified for exempt unit status for purposes of reimbursement under the Federal prospective payment system (PPS) as of July 1, 1987 or the hospital submits a written request to the Commissioner of Health for exemption of the hospital or unit no later than October 1, 1987 providing assurances that the hospital or unit meets the Federal qualifying criteria for exempt status under the Federal prospective payment system in 1988. For rate year 1989 and thereafter, hospitals seeking exempt unit status for units not previously recognized as exempt services shall submit a written request to the Commissioner of Health and the federal Department of Health and Human Services for exemption of the hospital or unit providing assurances and supporting documentation including assurances that the hospital or unit meets the Federal qualifying criteria for exempt status under the Federal prospective payment system in the rate year for which the hospital is seeking such exempt status. Exempt unit status for purposes of reimbursement shall be effective on July 1 or January 1 following the approval by the Commissioner of Health for such status provided that the request for exempt unit status is received at least 120 days prior to such dates.

(2) The hospital or unit provides only alcohol and/or substance abuse rehabilitation care and does not provide alcohol and/or substance abuse detoxification, or combined alcohol detoxification and rehabilitation, or combined substance abuse detoxification and/or rehabilitation, is licensed to provide such care under both Article 28 of the Public Health Law and sections 19.07 and 31.02 of the Mental Hygiene Law, and meets the alcohol and/or substance abuse rehabilitation standards set forth in 14 NYCRR section 381.4 or Part 1034 as appropriate. Additionally, the unit must be in a designated area containing all alcohol and/or substance abuse rehabilitation beds with adequate adjoining supporting spaces and assigned personnel qualified by training and/or by experience to provide alcoholism and/or substance abuse rehabilitation services as set forth by the Division of Alcoholism and Alcohol Abuse or the NYS Division of Substance Abuse as appropriate. In the case of exempt substance abuse units, to be eligible for an exempt unit per diem effective July 1, 1989 the hospital must meet the standards set forth in 14 NYCRR Part 1034 for the provision of these services;

(3) the facility is an acquired immune deficiency syndrome (AIDS) center established pursuant to the provisions of Part 405 of this Title; [or]

(4) the facility has established a discrete inpatient unit to treat epilepsy patients pursuant to the provisions of section 405.22 of this Title. Prior to but not after January 1, 1992, any facility licensed to provide treatment to epilepsy patients pursuant to section 405.22 of this Title shall be deemed to have established a discrete inpatient unit. Exempt unit status for purposes of reimbursement shall apply only to inpatient services and shall be effective on July 1 or January 1 following the approval by the Commissioner of Health for such status provided that the request for exempt unit status is received at least 120 days prior to such dates[.]; or

(5) the facility is designated by the Federal Department of Health and Human Services for purposes of Medicare reimbursement as a comprehensive cancer hospital or an exempt acute care children's hospital.

(b) **Payor rates of payment**. The same per diem rates of payment, determined pursuant to subdivision (c) of this section adjusted for non-covered services, shall be used by [State] state government agencies, corporations

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organized and operating in accordance with Article 43 of the Insurance Law, and organizations operating in accordance with Article 44 of the Public Health Law.

(1)(i) [Worker's compensation, volunteer firemen, and no-fault insurance programs and commercial carriers.]reserved

(2)(i) [Charge paying patients.]reserved
(3) [A two percent discount.]reserved
(4) [Negotiated payment rate systems for exempt services.]reserved
(5) [Health Maintenance Organizations.]reserved

(6) Hospitals and units that lose their exempt status under PPS shall continue to be exempt from case based rates of payment until the beginning of the rate period immediately following the date upon which the hospital or unit loses its exemption from PPS. Hospitals or units that gain exempt status under PPS shall continue to be paid case based rates until the beginning of the rate period immediately following the date upon which the hospital or unit was designated as exempt from PPS.

(7) reserved

(8) Hospice payments. (i) A general hospital that provides an inpatient exempt component of hospice care for persons eligible for payments to a hospice by a government agency in accordance with Subpart 86-6 shall be reimbursed for such inpatient services by or on behalf of the hospice at a rate of payment no greater than the rate of payment specified in Subpart 86-6.2 (f) for such hospice. No general hospital may charge for such inpatient services in an amount in excess of such applicable rate of payment.

(ii) reserved

(c) Rates of payment for exempt hospitals and units (other than AIDS centers [~~and exempt inpatient psychiatric units receiving payment pursuant to subdivision (c)(1) of this section~~] and comprehensive cancer hospitals). Hospital services provided in exempt hospitals or exempt units of hospitals (other than AIDS centers [~~and exempt inpatient psychiatric units receiving payment pursuant to subdivision (c) (1) of this section~~] and comprehensive cancer hospitals) shall be reimbursed on the basis of a per diem rate composed of:

(1) An initial per diem operating cost component computed on the basis of allowable historical inpatient operating expense (including expense associated with the services referenced in section 86-1.54(g)) based on 1981 separately identifiable cost and statistical data for the qualifying hospital or unit, (or, in the case of hospitals and units for which separately identifiable cost and statistical data is not available, a wage adjusted average operating cost per day for

comparable exempt units) volume and case mix adjusted to 1985 using total exempt unit reimbursable costs and cases and trended to 1985 pursuant to section 86-1.15 of this Subpart. The 1985 Medicare share of these costs shall be removed using the percentage used to identify Medicare costs pursuant to section 86-1.54(c) of this Subpart in the event that actual data for the exempt unit or hospital is not available. The non-Medicare exempt unit operating rate shall be further adjusted for changes in volume and case mix from 1985 to 1987 using total reimbursable non-Medicare costs and days and shall be trended to 1987 pursuant to section 86-1.15 of this Subpart. Finally, the 1987 case mix and volume adjusted non-Medicare exempt unit per diem shall be trended to the rate year pursuant to section 86-1.58 of this Subpart and adjusted for changes in case mix and volume in the rate year pursuant to section 86-1.64 of this Subpart on the basis of total non-Medicare reimbursable costs and days for the respective exempt unit and adjusted to include the exempt unit's share of adjustments made pursuant to section 86-1.52(a)(1)(iii)(a) [~~and~~], (iv) and (v) of this Subpart.

(2) a capital per diem cost component computed on the basis of budgeted capital costs allocated to the exempt hospital or unit, pursuant to the provisions of section 86-1.59 of this Subpart (or, in the case of hospitals and units for which separately identifiable cost and statistical data is not available, a statewide average capital cost per day for comparable exempt units) divided by exempt hospital or unit patient days reconciled to actual total expense; and

(3) a [~~primary~~] health care services allowance of [~~.23 percent~~] .614 percent for rate year 1994 and .637 percent for rate year 1995 of the hospital's non-Medicare reimbursable inpatient costs computed without consideration of inpatient uncollectible amounts and after application of the trend factor described in section 86-1.58.

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Attachment 4.19-A
Part I



(d) Designated AIDS Treatment Centers Rates of Payment. For services provided to AIDS patients in a hospital designated as an AIDS Treatment Center by the State Hospital Review and Planning Council pursuant to Part 405 of this Title, the hospital shall receive an operating rate of payment based on its 1987 discrete AIDS center rate trended to the rate year pursuant

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